IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2007

Coram

The Hon'ble Mr. Justice P.JYOTHIMANI

W.P.Nos.23341 to 23345 of 2007
and
M.P.Nos.1 of 2007

N.Shanmugam	..	Petitioner in W.P.No.23341/2007
P.Devasakayam	..	Petitioner in W.P.No.23342/2007
N.Manoharan	..	Petitioner in W.P.No.23343/2007
A.Subramanian	..	Petitioner in W.P.No.23344/2007
L.Duraisamy	..	Petitioner in W.P.No.23345/2007

Vs.

The Inspector General of Registration, Chennai - 28.	..	Respondent in all the W.Ps

Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent in connection with the impugned order passed by him proceeding Nos.53143/B1/2000-1, 2, 3, 4 and 5 dated 02.07.2007 and quash the same and direct the respondent to reinstate the petitioners into service and grant them all consequential service and monetary benefits.

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For Petitioners .. Mr.K.Venkataramani, Sr. Counsel
for Mr.M.Muthappan

For Respondent .. Mr.M.R.Jothimanian,
Govt. Advocate

COMMON ORDER

These writ petitions are filed against the orders passed

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by the respondent/Inspector General of Registration dated 02.07.2007 imposing the punishment of dismissal from service in respect of the petitioners.

2.The petitioners in these writ petitions were all working in the office of the Sub Registrar, Kalambur. The petitioner, in W.P.No.23341 of 2007 was the Office Assistant, in W.P.No.23342 of 2007 was the Sub Registrar, in W.P.Nos.23343 and 23344 of 2007 were the Assistants and in W.P.No.23345 of 2007 was the Office Assistant in the said Sub Registrar's office and they were issued with a charge memo by the Commissioner, Disciplinary Proceedings Tribunal, Vellore dated 16.12.1999, under Rule 20 of the Tamil Nadu Government Service Conduct Rules, 1977 which states that if the Government Servant fails to maintain absolute integrity and devotion of duty, he is liable for disciplinary proceedings. The charge relates to corruption viz., illegal collection of bribe of Rs.500/- from Shanmugam, Document Writer and Rs.150/- from C.Rajakili a private person at the office of the Sub Registrar. The petitioners have submitted their explanations.

3.The case of the petitioners is that even though one of the petitioners viz., Shanmugam, the petitioner in W.P.No.23341 of 2007 is stated to have given a statement, admitting the charge of corruption, subsequently he retracted the same that such letter has been obtained from him by force and threat and therefore that cannot be taken as an admission of the charge. An enquiry was conducted and the enquiry officer's report was sent on 23.10.2000 and thereafter the petitioners have submitted their further representations to the respondent. It is thereafter, by the impugned proceedings, the orders of punishment have been passed. It is as against the said orders of the respondent imposing the punishment of dismissal from service, the petitioners have filed the present writ petitions.

4.Mr.K.Venkatramani, learned senior counsel appearing for the petitioners would vehemently contend that even though it is stated in the impugned orders that as against the impugned orders of dismissal, the right of appeal is given to the petitioners, considering the facts and circumstances, these cases should be taken as the cases of punishment without evidence. He would submit that while the charge is relating to corruption of receiving of bribe of Rs.650/-, there is no recovery of money and there is absolutely no evidence to impute the petitioners in respect of the charge.

5.On the other hand, learned Government Advocate, who has taken notice on behalf of the respondent, would submit that when the right of appeal is given under the impugned orders

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unless it is shown that the authority who passed the orders has no jurisdiction or there is a violation of natural justice, there is no question of invoking the jurisdiction of this Court under Article 226 of the Constitution of India, except, after exhausting the appellate remedy.

6.I have heard the learned counsel for the petitioner and the learned Government Advocate and gone through the papers relating to these cases.

7.A reference to the impugned orders clearly shows that the enquiry had been conducted and the petitioners have also participated in the same and when the petitioners are not making malafide allegations against any one of the officials, the question of violation of natural justice does not arise. It is contended by the learned senior counsel for the petitioners that in these cases, without any evidence, maximum punishment is given and therefore, it should be treated as an extraordinary circumstance for the purpose of invoking jurisdiction under Article 226 of the Constitution of India since there is a monstrosity of situation inasmuch as by driving the petitioners to go to the appellate authority that will only take away further time. This said contention is not tenable. The further contention that the enquiry officer has given report in the year 2000 while the impugned orders came to be passed after seven years and therefore this Court should interfere is also not an acceptable argument.

8.Considering the totality of the situation, since it is not the case of the petitioners that the authority who has passed the impugned orders has no jurisdiction, I do not think that this is a fit case wherein the monstrosity of situation is in existence so as to enable this Court to exercise jurisdiction under Article 226 of the Constitution of India. A reference to the impugned orders show that the authority has in fact referred to the various instances and evidence and after analysing the entire situation, the impugned orders of dismissal came to be passed. It is also not in dispute as it is found in the impugned orders that as against the impugned orders of dismissal, the petitioners are eligible to file appeals within a period of two months from the date of receipt of a copy of the order.

9.In view of the above said circumstances, I do not think that this is a fit case for this Court to interfere under Article 226 of the Constitution of India. Therefore, the writ petitions fail and the same are dismissed. No costs. Consequently, connected M.Ps are dismissed. However, the petitioners are permitted to resort to the appeal remedy as

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found in the impugned orders. If the petitioners file appeals to the appropriate appellate authority within a period of one week from the date of receipt of a copy of this order, the appellate authority shall receive the appeals without raising the issue regarding limitation and decide the matters on merits and in accordance with law and such orders shall be passed within a period of eight weeks thereafter.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

mmi

To

The Inspector General of Registration,
Chennai - 28.

+5ccs to M/s.M.Muthappan, Advocate Sr 48239

+5ccs to Govt.Pleader Sr 48548 to 48552

GK (CO)
km/6.8.

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